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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/072,127      | 02/08/2002  | Clayton R. Rogers    | 01-22               | 1390             |

30699 7590 05/07/2003

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MIAMISBURG, OH 45342

EXAMINER

CHARLES, MARCUS

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3682

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

# Office Action Summary

Applicant(s)

10/072,127

Applicant(s)

ROGERS, CLAYTON R.

Examiner

Marcus Charles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1/1/2 . 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first action relating to serial application number 10/072,127 filed 02-08-2002.

Claims 1-18 are currently pending.

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#### ***Drawings***

1. The draftsman has approved the drawing filed with this application as formal drawing.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to what angle is being referred to as the positive angle and the differential angle.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7 -12 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by JP(58-178042). JP(58-178042) discloses a system comprising a tensioner (fig. 6), a drive pulley (32) coupled to a belt (39), the pulley has a slack span and a tight span on opposite sides thereof. The tensioner comprises a first and second

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arm (40-4, 40-5), each arm is rotatable coupled to a pulley (44, 46), such that one pulley is coupled to the tight span and the other is coupled to the slack span.

In claims 2 and 11, note the arms are maintained at a constant angle with

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respect

to each other.

In claims 3 and 10, as understood, it is apparent the arms form a positive angle and a differential with respect to the belt.

In claims 4-5 and 12, it is apparent that the tensioner is configured to perform positive take-up and it is also apparent that when the system is being driven one of the pulleys (44, 46) coupled to the tight strand generates a desired tension on the slack span.

In claim 7, note from the convention symbol of metal in fig 5, it appears that the arms are made of rigid metal.

In claims 8 and 15, it appears that the tight span is created on the exit side of the drive pulley (32) and the slack span is created on the exit side of the auxiliary pulley (38).

Regarding claims 9-12 and 15, it is apparent that the method steps would be inherently included during the utilization of the JP(58-178042) device.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP(58-178042) in view of Cancilla(4,069,719). JP(58-178042) does not disclose

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that the tensioner comprises a resilient device. Cancilla discloses a tensioner comprising a resilient device (23) and it appears that the torque on the resilient device is less than the counteracting torque generated by a force imparted by a first arm (18) in the tight span and the second arm (17) coupled to the slack span in order to maintain the desired tension in a desired direction during operation. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tensioner arms of JP(58-178042) so as to include a resilient device in view of Cancilla and such that the torque on the resilient device is less than the counteracting torque generated by a force imparted by a first arm in the tight span and the second arm coupled to the slack span in order to maintain the desired tension in a desired direction during operation.

Regarding claims 13-14, it is apparent that the method steps would be inherently included during the utilization of the JP(58-178042) in view of Cancilla device.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oshima et al.(5,002,519) discloses a system comprising a tensioner having two arms (16a, 16b) a pulley (13a, 13b) coupled to each end of a respective arm. JP(06-94091) discloses a tensioner comprising two arms (67) a pulley (65) coupled to each arm. Bartos et al.(4,758,208), Kuhn et al.(5,012,632),

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Trinquard(4,981,116), Guhr(6,506,137), Oyaizu(4,715,333) and Becker et al.(6,167,686) disclose a tensioner in combination with a drive system comprising a plurality of accessory pulleys

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Marcus Charles  
Primary Examiner  
Art Unit 3682  
May 1, 2003